(1) 3 Final

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WP NO. 2372 **/2003**

PETITIONER: J. B. Sinha, S/o Late Shri Mahanandan Prasad Sinha, Aged about 60 years, Ex-Accountant, Janpad Panchayat, Dharamjaigarh, District Raigarh, R/o Dharamjaigarh, District Raigarh,(C.G.).

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through : The Secretary, Panchayat and Social Welfare Department, D.K.S. Bhawan, Raipur, (C.G.).

2. The Collector, District Raigarh, Raigarh, (C.G.).

3. Zila Panchayat, Raigarh, Through : The Chief Executive Officer, Raigarh, (C.G.).

4. Janpad Panchayat, Dharamjaigarh, Through ; The Chief Executive Officer, Dharamjaigarh, District Raigarh, (C.G.).

5. Kariyam Sidar, Peon, Janpad Panchayat Dharamjaigarh, District Raigarh, (C.G.).

P. R. No. 2256/03
Presented by Shri Pujari
dated 05/08/03

RECEIVED COPY,
5/8/03
CLERK TO A.G. BILASPUR

30/7/13

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS / CERTIORARI ETC. OR DIRECTION / ORDER IN THE LIKE NATURE ETC.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

WP No. 2372/03

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

29.8.2003

Petitioner by Ku. Pooja Shukla, Advocate.

State by Shri Ranbir Singh, Govt. Advocate.

Heard.

By this petition under Article 226/227 of the Constitution of India the petitioner has raised the grievance that the Respondent No.4 has not passed any order regarding extension of the service of the petitioner despite the fact that the resolution was passed by the executive council as well as the standing council. Whereas the term of service of the respondent No.5 was extended by the order of the Respondent No.4 that is why the action of the Respondent No.4 in not justified. Not extending of the service of the petitioner is violative of Articles 14, 16 and 21 of the Constitution.

At the relevant time the petitioner was working as Accountant in Janpad Panchayat, Dharmjaigarh. He attained the age of 58 years on 30th November, 2000. Janpad Panchayat recommended for extension of the service of the petitioner and resolution was passed twice to this effect but the prescribed authority i.e. Respondent No.4 has not extended the benefit to the petitioner, therefore the action is arbitrary and malafide. It has been prayed that appropriate writ, order, direction in the nature of mandamus commanding the respondent No.4 be issued to give salary to the petitioner for two years from the date of retirement i.e. 30.11.2000 on the basis of extension of age of superannuation from 58 years to 60 years.

I have heard learned counsel for the parties.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक 2372/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

In this connection the relevant Rule is 33 of the Panchayat (Recruitment and General Conditions of Service) Rules, 1999 which lays down that the age of superannuation for the Panchayat employees other than teaching staff and class IV employees, shall be 58 years. For teaching staff and class IV employees the age of superannuation shall be 60 years. In exceptional cases with the prior permission of the prescribed authority Panchayat can extend the age of superannuation of any of its employee for maximum period of two years. Since in this matter no permission is granted by the prescribed authority therefore merely passing of the resolution by the Janpad Panchayat in favour of the petitioner does not give any right to the petitioner to continue after 58 years up to 60 years. To make out an exceptional case the Panchayat has to show the reasons how the petitioner's case becomes exceptional for extension in service. There is nothing on record which goes to show that the Panchayat recommended the case of the petitioner as an exceptional case and since no permission was granted by the prescribed authority, therefore as of right the petitioner is not entitled for extension in service.

In view of the above I do not find any substance in this petition. The same is without force, which is liable to be and is dismissed.

Sd/-
L.C. Bhadoo
Judge

पीछे देखिये